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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,926	01/30/2001	Robert Raymond Sealey	95-454	9079

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EXAMINER
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PHAN, JOSEPH T

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/771,926

Applicant(s)

SEALEY ET AL.

Examiner

Joseph T. Phan

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5-8,10,12,13,16-20 and 23-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,10,12,13,16-20 and 23-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 26-29 objected to because of the following informalities: Quotation marks as used (ie. ".711" , ".729" , "GSM" ) are improper to US standard practices.

Appropriate correction is required.

Claims 26-29 objected to as reciting "...MIME type has a value of one of ".711", ".729", and ".GSM" for identification..." It is unclear and not taught in the specification how MIME types have a value to them. MIME is a protocol used and each do not have a numerical value as claimed. These protocols are basically extensions of MIME formats. Appropriate clarification and/or correction is required.

### ***Double Patenting***

2. Applicant is advised that should claim 8 be found allowable, claim 10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 5-8, 10, 12-13, 16-20, and 23-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Picard et al., Patent #6,233,318 in view of Luzeski et al., Patent #6,301,245.**

**Claims 1-2, 5-8, 12-13, 16-20, and 23-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Luzeski et al., Patent #6,301,245**

Regarding claims 1-2, 8, 10, 12-13, 19-20, and 26-29 Picard teaches a means, method, and computer readable medium in a user computer for sending a voice message, the method and computer comprising:

means for recording by an executable browser plug-in resource a voice message spoken by a calling party based on encoding parameters recognized by a voice messaging system configured for storing voice messages for a plurality of voice messaging subscribers (Fig.11,col.3 lines 60-67, and col.19 lines 1-25)

means for storing the voice message within a data file having a selectable Multipurpose Internet Mail Extension (MIME) type recognizable by the voice messaging system as a voice message(*col.8 lines 42-54, col.11 lines 28-36, and col.13 lines 35-67; as taught in Picard, the MIME is selected b/c of the voice data*); and

means for outputting the data file using a prescribed messaging protocol for transfer to a destination voice mailbox accessible by the voice messaging system for a corresponding one of the voice messaging subscribers distinct from the calling party (col.8 lines 42-54 and col.13 lines 35-67);

an e-mail client configured for sending the data file to a destination voice mailbox for one of the voice messaging subscribers distinct from the user, using a prescribed

Art Unit: 2645

messaging protocol, enabling access by the voice messaging system for the corresponding one voice messaging subscriber (col.8 lines 42-54 and col.13 lines 35-67).

Examiner takes official notice that the added limitations of "*encoding the voice message according to any one of G.711, G.729, and GSM encoding protocols....where the MIME type identifies the one encoding protocol*" is old and well-known in the art as these are older standards which have been widely adopted, previously used and are well-known in the art of encoding voice over the internet. The MIME type is understood to identify one of these widely adopted MIME encoding protocols. For example, see Gifford, Patent #6,549,612, col.15 lines 10-14

Picard is silent on the recording step which includes encoding the voice message using mu-law encoding at an encoding rate of 8 kHz according to one of G.711, G.729, and GSM encoding protocols.

However Picard's system records and sends voice files over the internet(col.8 lines 42-54 and col.13 lines 35-67) and per applicant's specification(page 9 lines 21-26) and per Newton's telecom dictionary 1998 (*see attached definitions of G standards*), G.711, G.729, and GSM are standards set by the ITU committee and therefore one of ordinary skill in the art would have been motivated to use these standards of encoding voice messages at a rate of 8 kHz.

Furthermore, Luzeski, Patent #6,301,245 discloses encoding a voice message for sending over the Internet Protocol using mu-law encoding at a rate of 8 kHz according to one of G.711, G.729, and GSM encoding protocols (Luzeski, appendix of

col.24 lines 41-48). Combining Luzeski's teaching with Picard is also an obvious modification since Picard is merely silent on disclosing the specific encoding protocol format of MIME but as Luzeski discloses, these encoding protocols are well-known in the art of MIME voice encoding.

Regarding claims 5, 16, and 23, Picard in view of Luzeski teaches the method, means, and medium of claims 3, 14, and 21 further comprising reviewing the voice message by the executable browser plug-in resource prior to the outputting step (col.8 lines 42-54 and col.13 lines 35-67).

Regarding claims 6, 17, and 24, Picard in view of Luzeski teaches the method, means, and medium of claims 1, 12, and 21 wherein the outputting step includes outputting the data file using an executable e-mail client configured for sending the data file using a prescribed e-mail protocol as the prescribed messaging protocol (col.8 lines 42-54 and col.13 lines 35-67).

Regarding claims 7, 18, and 25, Picard in view of Luzeski teaches the method, means, and medium of claims 6, 17, and 24 wherein the outputting step includes outputting the data file to the destination voice mailbox according to one of SMTP protocol and IMAP protocol (col.13 lines 41-67 and col.14 lines 37-43).

**4. Claims 1-2, 5-8, 12-13, 16-20, and 23-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Luzeski et al., Patent #6,301,245.**

Regarding claims 1-2, 8, 10, 12-13, 19-20, and 26-29 Luzeski teaches a means,

Art Unit: 2645

method, and computer readable medium in a user computer for sending a voice message, the method and computer comprising:

means for recording by an executable browser plug-in resource a voice message spoken by a calling party based on encoding parameters recognized by a voice messaging system configured for storing voice messages for a plurality of voice messaging subscribers (22N Fig.3 and col.7 lines 7-15);

means for storing the voice message within a data file having a selectable Multipurpose Internet Mail Extension (MIME) type recognizable by the voice messaging system as a voice message, the MIME type identifying the one encoding protocol(col.20 lines 32-38 and col.24 lines 10-14; *MIME is standard when attaching voicemail with email to transmit over the internet*); and

means for outputting the data file using a prescribed messaging protocol for transfer to a destination voice mailbox accessible by the voice messaging system for a corresponding one of the voice messaging subscribers distinct from the calling party (col.21 lines 20-43).

Examiner takes official notice that other prior references teach encoding voice messages using at least one of G.711, G.729, GSM encoding protocols as these are older standards which have been previously used and are well-known in the art of encoding voice over the internet. For example, see Gifford, Patent #6,549,612, col.15 lines 10-14

In view of the above Picard over Luzeski explanation, Luzeski teaches the recording step which includes encoding the voice message using mu-law encoding at

Art Unit: 2645

an encoding rate of 8 kHz according to one of G.711, G.729, and GSM encoding protocols.

Regarding claims 5-7, 16-18, and 23-25, see Luzeski (col.5 lines 7-40; it is inherently understood that the voice message is reviewed prior to outputting (by not entering "send" beforehand).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-2, 5-8, 12-13, 16-20, and 23-29 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



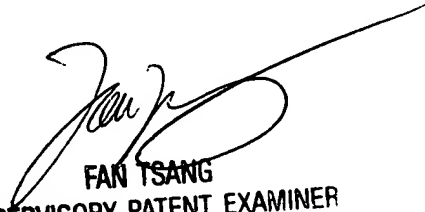
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTP  
June 24, 2005

*JTP*

  
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